

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
WESTERN DIVISION**

**JAMES FRANKLIN LINER,** )

**Movant,** \_\_\_\_\_)

## V.

**Case No.: 2:17-cv-08047-VEH  
(2:11-CR-116-VEH)**

UNITED STATES OF AMERICA, )

**Respondent.** )

# MEMORANDUM OPINION

James Franklin Liner (hereinafter “Liner”) has filed with the Clerk of this Court a “Request for Help” (Doc. 1; filed December 11, 2017). In that document, he asks that his sentence be changed to “time served, or early release, or even home confinement.” (*Id.* at 2). Although the request does not contain any citation to authority, the only authority that this Court has to modify Mr. Liner’s sentence is found at 28 U.S.C. § 2255.

The Court takes judicial notice that Mr. Liner previously filed a § 2255 petition which was finally adjudicated by the undersigned on December 1, 2015 in the case styled *James Franklin Liner v. United States*, Case No.: 2:14-cv-08022-VEH. Accordingly, this is Liner's second motion under Section 2255. Liner has failed to show

that this motion has been brought with permission of the Eleventh Circuit Court of Appeals. Accordingly, this Court lacks jurisdiction to proceed. “[A] second or successive [§ 2255] motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals.” 28 U.S.C. § 2255(h). *See also* 28 U.S.C. § 2244(b)(3)(A). *Darby v. Hawk-Sawyer*, 405 F.3d 942, 944-45 (11th Cir.2005); *Farris v. U.S.*, 333 F.3d 1211 (2003) (same); *United States v. Harris*, 546 Fed. Appx. 898, 900 (11th Cir.2013) (unpublished opinion) (“A district court lacks the jurisdiction to hear a second or successive § 2255 motion absent authorization from a court of appeals.”) (citations omitted).

Because this court lacks jurisdiction to entertain the instant § 2255 Petition, this case will be dismissed without prejudice to allow Liner the opportunity to seek authorization from the Eleventh Circuit to file a second or successive § 2255 motion.

### **ORDER**

**ACCORDINGLY**, it is **ORDERED** that:

1. The pending motion to vacate, set aside, or correct sentence (Doc. 1) is **DISMISSED**, without prejudice, for lack of jurisdiction.

2. The Clerk is directed to term all pending motions within this case file and the associated criminal case, *United States v. Liner*, 2:11-cr-00116-VEH.

**DONE** and **ORDERED** this the 13th day of December, 2017.

A handwritten signature in cursive script, appearing to read "V. Emerson Hopkins", written in black ink.

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**VIRGINIA EMERSON HOPKINS**

United States District Judge